

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
QWEST CORPORATION) CC Docket No. 96-45
PINE TELEPHONE SYSTEMS, INC.)
OREGON TELEPHONE CORPORATION)
)
Joint Petition for Waivers of the Definition of)
"Study Area" Contained in Part 36, Appendix-)
Glossary of the Commission's Rules)

TO: Chief, Wireline Competition Bureau

JOINT PETITION FOR STUDY AREA WAIVER

QWEST CORPORATION

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Dated: May 4, 2006

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SUMMARY

Qwest Corporation (“QC”), Pine Telephone Systems, Inc. (“PTS”) and Oregon Telephone Corporation (“OTC”) request study area waivers for three transfers of unserved territory in northeastern Oregon previously approved by the Public Utility Commission of Oregon (“OPUC”). The specific transfers are: (1) the 1999 abandonment of the then-unserved Granite area by QC, and reallocation of it to PTS; (2) the 2000 abandonment of the then-unserved Stices Gulch area by QC, and reallocation of it to PTS; and (3) the 2004 trade of the then-unserved southern portion of Stices Gulch by PTS to OTC, for then-unserved territory adjacent to the northern portion of Stices Gulch.

At the time of the original transfers, the applicable Commission order and National Exchange Carrier Association (“NECA”) data submission standard appeared to indicate that study area waivers were not required for transfers and additions of unserved areas. However, a subsequent 2004 Commission order and 2006 revision of the NECA standard found that study area waivers are required for transfers and additions of “unserved” areas that were previously included within an existing study area. PTS and OTC understand that NECA will not accept data for pooling and universal service fund (“USF”) purposes for the areas involved in the 1999, 2000 and 2004 transfers without an FCC study area waiver.

The proposed study area waivers comply with the “one percent” condition and with the three-prong standard for evaluating study area waivers. First, the total incremental impact of all three transactions upon the USF is \$123,898 per year, which is a small fraction of the \$41,957,250 that constitutes one percent of the projected High Cost Support for 2006 and which therefore will not have an adverse impact upon the USF. Second, the OPUC has

previously authorized all three transactions, and has now issued a letter indicating that it supports the proposed federal study area waivers. Finally, the proposed waivers are in the public interest, for they will advance the core goal of universal service by placing formerly unserved mountain and forest areas in the study areas of rural carriers that have already brought telephone service to them for the first time ever and that are willing and able to upgrade and expand such service in the future.

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TO: Chief, Wireline Competition Bureau

JOINT PETITION FOR STUDY AREA WAIVER

Qwest Corporation ("QC"), Pine Telephone Systems, Inc. ("PTS") and Oregon Telephone Corporation ("OTC") (collectively, "Petitioners") hereby request waiver of the definition of "study area" contained in the Appendix-Glossary of Part 36 of the Commission's Rules with respect to three "transfers" previously approved by the Public Utility Commission of Oregon ("OPUC") of then-unserved areas in the mountains and forests of Grant and Baker Counties in northeastern Oregon. The specific "transfers" for which study area waivers are requested are: (1) the 1999 abandonment by QC ¹of then-unserved territory in and around the Town of Granite in Grant County and unallocation of such territory from QC's Sumpter, Oregon exchange,² plus the 1999 allocation by the

¹ The predecessor of QC was U S WEST Communications, Inc., which was the party engaged in the subject "transfers" with PTS.

² *Order (In the Matter of the Application of U S WEST Communications, Inc., for an Order Unallocating Rights to Exclusively Served Territory and to Abandon Territory)*, Order No. 99-463, Docket UA 72, entered August 2, 1999 (attached as Exhibit A).

OPUC of the same then-unserved Granite area to PTS³; (2) the 2000 abandonment by QC of then-unserved territory in the Stices Gulch area of Baker County and unallocation of such territory from QC's Baker, Oregon exchange,⁴ plus the 2000 allocation by the OPUC of the same then-unserved Stices Gulch area to PTS⁵; and (3) the 2004 transfer of then-unserved territory within the southern portion of Stices Gulch by PTS to OTC for inclusion in OTC's Hereford-Unity exchange in Baker County, Oregon, and the 2004 transfer of then-unserved OTC territory adjacent to the northern portion of Stices Gulch by OTC to PTS for inclusion in PTS's Granite, Oregon exchange.⁶

BACKGROUND

In 1995, QC was granted a blanket Section 214 waiver by the Commission permitting it to discontinue service on lines transferred by it to carriers with which it had no affiliation if certain conditions were met.⁷ These conditions included that: (a) the transfers include no more than 1,000 lines; (b) there was no termination or interruption of existing services; (c) the state commission exercising jurisdiction over

³ Order (*In the Matter of the Application of Pine Telephone System, Inc., for Allocation of Exclusively Served Territory*), Order No. 99-464, Docket UA 73, entered August 2, 1999 (attached as Exhibit B).

⁴ Order (*In the Matter of the Application of U S WEST Communications, Inc., for an Order Unallocating Rights to Exclusively Served Territory and to Abandon Territory*), Order No. 00-416, Docket UA 86, entered July 31, 2000 (attached as Exhibit C).

⁵ Order (*In the Matter of the Application of Pine Telephone System, Inc., for Allocation of Exclusively Served Territory*), Order No. 00-420, Docket UA 87, entered August 1, 2000 (attached as Exhibit D).

⁶ Order (*In the Matter of Transfer of Telephone Service from Oregon Telephone Corp. to Pine Telephone System, Inc.*), Order No. 04-204, Docket UA 103, entered April 6, 2004 (attached as Exhibit E).

⁷ *In the Matter of The Petition and Application of US West Communications For a Declaratory Ruling, or, Alternatively, For Blanket Section 214 Authorization of Transfers to Unaffiliated Carriers of Less than 1,000 Access Lines Where all Existing Services Will Be Provided Without Interruption and Where the State Commission Has Approved the Transaction*, Order and Authorization, 10 FCC Rcd 6077 (1995).

telecommunications carriers did not object to the transfer; and (d) a waiver of the definition of the study area under Part 36 had been granted for all areas involved in the transfer under the standards referenced in the Commission's *US WEST/Eagle Telecommunications* order⁸ [that the aggregate annual shift in USF assistance as a result of the waiver not equal or exceed one percent of the total USF].

On July 16, 1996, the Commission's Common Carrier Bureau issued an order clarifying when waivers of study area boundaries were required and when they were not required in circumstances where incumbent local exchange carriers ("ILECs") initiated service to previously unserved areas.⁹ The clarification proceeding was initiated by the National Exchange Carrier Association ("NECA") and several Alaskan and other rural ILECs that had found it very expensive, burdensome and time-consuming (as well as inimical to the advancement of universal service) to seek and obtain study area waivers when extending service to small clusters of previously unserved households located beyond their previous study area boundaries. The Bureau stated that study area waivers were not required when: (a) a separately incorporated company is establishing a study area for previously unserved territory; (b) a company is combining previously unserved territory with one of its existing study areas in the same state; and (c) a holding company is

⁸ *Memorandum Opinion and Order (In the Matter of US West Communications, Inc. and Eagle Telecommunications, Inc. Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules and Eagle Telecommunications, Inc. Petition for Waiver of Section 61.41(c) of the Commission's Rules)*, 10 FCC Rcd 1771 (1995).

⁹ *Memorandum Opinion And Order (In the Matter of Request for Clarification Filed by the National Exchange Carrier Association, Inc. and Petitions for Waivers Filed by Alaska Telephone Company, Ducor Telephone Company and Kingsgate Telephone, Inc. Concerning the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules)*, 11 FCC Rcd 8156 (1996) ("NECA Clarification Order").

consolidating existing study areas in the same state.¹⁰

In June 1997, NECA revised its *Cost/Average Schedule Issue Number 8.5*,¹¹ to reflect the Bureau's July 16, 1996 order. NECA stated that it would accept Universal Service Fund ("USF") and pooling data for previously unserved areas without study area waivers in accordance with three scenarios, including the following circumstances labeled as Scenario 3:

The area is in the franchise territory of one exchange carrier, but service is not provided to customers in the area. This is similar to Scenario 2, except that state commission authorization is required in order to change franchise territory boundaries.

In this case, state commission action is required, and appropriate documentation from either the state commission or the [exchange carrier] confirming the state commission decision that the area is an unserved area is required before NECA will accept the data for pooling and USF.¹²

In 1999, QC abandoned its rights to serve the then-unserved western portion of its Sumpter, Oregon exchange (which included the Town of Granite and surrounding areas), and asked the OPUC to delete or unallocate the area from the Oregon territory in which QC had been allocated exclusive rights to provide local exchange telephone service. In 2000, QC abandoned its rights to serve the then-unserved Stices Gulch portion of its Baker, Oregon exchange, and asked the OPUC to delete the area from the Oregon territory in which it had been allocated exclusive rights to provide local exchange telephone service. In both instances, QC was not serving any customers in the areas being abandoned. The

¹⁰ *Id.*, at 8160

¹¹ National Exchange Carrier Association, *Cost/Average Schedule Issue Number 8.5, Data Reporting on Cross-Study Area Services*, Revised 6/97 (attached as Exhibit F).

¹² *Id.*, at p. 7.

OPUC granted both of QC's abandonment and unallocation requests (see Exhibits A and C), and reallocated the Granite and Stices Gulch areas immediately to PTS (see Exhibits B and D).

At the time of its 1999 and 2000 abandonments of the unserved Granite and Stices Gulch areas, QC did not file an application to discontinue service under Section 214 because it was not discontinuing, reducing or impairing service to any customer as those terms are used in 47 C.F.R. §63.60. Rather, QC was abandoning its unexercised allocations to serve the areas in question.

Moreover, QC believed that its 1999 and 2000 abandonments were covered by its 1995 Blanket Waiver. First, Qwest and PTS were then (and remain today) wholly separately owned and operated, and are not deemed to be "affiliated" under any of the Commission's applicable definitions or rules. Second, the abandonments met all of the relevant conditions of QC's Blanket Waiver, including: (a) the abandonments affected less than 1,000 lines (in fact, no customers or lines were affected); (b) no existing services were interrupted or terminated (in fact, there was no service at the time in either the Granite area or the Stices Gulch area); (c) the state commission exercising jurisdiction over telecommunications carriers did not object (in fact, the OPUC approved both of QC's abandonment and unallocation requests, see Exhibits A and C); and (d) no study area waivers were deemed necessary at the time because the areas were unserved, and because the then-governing 1996 *NECA Clarification Order* and June, 1997 revision of NECA's *Cost/Average Schedule Issue Number 8.5* indicated that study area waivers were not required for like "transfers" involving unserved territory.

QC does not believe it was required to file Section 214 applications in 1999 or 2000 to discontinue its operations in the unserved Granite and Stices Gulch areas. However, if for any reason the Commission finds that QC should have done so, QC asks the Commission to find that the material provisions of Qwest's Blanket Waiver would have applied to the 1999 and 2000 abandonments and unallocations, and that no additional Section 214 application is now necessary as a pre-condition to this Joint Petition as it relates to QC's abandonments of the then-unserved Granite area and/or Stices Gulch area in favor of PTS.

In December 2003, PTS and OTC sought authorization from the OPUC to trade then-unserved portions of each other's allocated service territories. Specifically, PTS proposed to transfer to OTC then-unserved territory within the southern portion of Stices Gulch for inclusion in OTC's Hereford-Unity exchange in Baker County, Oregon, and OTC proposed to transfer to PTS then-unserved territory adjacent to the northern portion of Stices Gulch for inclusion in PTS's Granite, Oregon exchange. The OPUC approved these transfers on April 6, 2004. See Exhibit E.

On April 12, 2004, the Commission issued an *Order (M&L Enterprises, Inc., d/b/a Skyline Telephone Company Petition for Waiver of Sections 36.611, 36.612, and 69.2(hh) of the Commission's Rules)*, 19 FCC Rcd 6761 (2004) ("*Skyline Order*"), wherein it granted a study area waiver to a new rural ILEC and permitted the ILEC to receive high-cost universal service support based upon its own costs in a newly established study area consisting of an unserved area that had previously been located within the boundaries of the Washington State study areas of QC and Verizon Northwest, Inc. The Commission noted that it had not

previously defined the term “unserved” for purposes of its study area waiver requirements, and concluded that treating an area as “unserved” when it was previously within an existing study area would be inconsistent with the purposes of the study area freeze. *Id.*, at par. 11.

In January 2006, NECA again revised its *Cost/Average Schedule Issue Number 8.5*,¹³ this time to reflect the *Skyline Order*. NECA noted that the *Skyline Order* reiterated that a study area waiver is not required “when a company is combining previously unserved territory with one of its existing study areas in the same state,” but that this only applies to territory that is not within an existing study area. NECA stated that, “[b]ased on discussions with FCC Staff, state PUC decisions ‘unallocating’ an area without service from one company and transferring that service to another company would not revise a ‘frozen’ study area boundary for federal regulatory purposes” and that “a FCC waiver would still be required.” *Exhibit G*, at p.4. NECA stated that, except for the limited exceptions noted by the FCC in the *Skyline Order* and subsequent orders, NECA will not accept data for pooling and USF purposes for services provided to customers outside the frozen study area boundaries unless an FCC study area waiver is obtained. *Id.*

It is the information and belief of PTS and OTC that NECA intends to apply its latest January 2006 revision of its *Cost/Average Schedule Issue Number 8.5* to the 1999, 2000 and 2004 Granite area and Stices Gulch area allocations and transfers, and that NECA will not accept data from PTS and OTC for pooling and USF purposes for services provided to customers outside their pre-1999 frozen study area boundaries unless an FCC study area

¹³ National Exchange Carrier Association, *Cost/Average Schedule Issue Number 8.5, Data Reporting on Cross-Study Area Services*, Revised 1/06 (attached as Exhibit G).

waiver is obtained.

COMPLIANCE WITH "ONE PERCENT" CONDITION

Petitioners PTS and OTC certify that the aggregation of all local telephone exchange transfers and study area waivers involving them and their subsidiaries and affiliates during 2006 will not cause a shift in USF cost recovery in an amount equal to or greater than one percent of the total USF assistance for 2006. The most recent Universal Service Administrative Company ("USAC") projection for High Cost Support for 2006 is \$4,195,724,959.¹⁴ As indicated below, the projected USF impact of the subject transactions is only a minuscule fraction of the \$41,957,250 that constitutes one percent of the projected High Cost Support for 2006. Therefore, to the extent that the "one percent" limitation adopted by the Commission in US West Communications, Inc. and Eagle Telecommunications, Inc., 10 FCC Rcd 1771 (1995), remains relevant and applicable, the subject transaction complies with it.

STUDY AREA WAIVER

The Commission froze study area boundaries as of November 15, 1984, to prevent telephone holding companies from setting up high cost exchanges within their existing service territories as separate companies in order to maximize high cost support. MTS/WATS Market Structure, 57 R.R.2d 511 (1984). The Commission expressly stated at

¹⁴ Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Second Quarter 2006* (January 31, 2006), at Appendix HC02.

the time that study areas were **not** frozen to "discourage the acquisition of high cost exchanges or the expansion of service to high cost areas." Amendment of Part 67, 49 Fed. Reg. 48325, 48337 (Dec. 12, 1984).

Allowing QC to remove the then-unserved Granite and Stices Gulch areas from its Oregon study area (Study Area Number 535163), and allowing these areas to be re-allocated by the OPUC to the Oregon study area of PTS (Study Area Number 532392), a rural telephone company willing and able to construct and operate the new telecommunications facilities necessary to serve these areas for the first time, will promote and advance universal service without conflicting with the Commission's rationale for freezing study area boundaries. Likewise, allowing PTS to trade to OTC (Study Area Number 532389) the then-unserved southern portion of Stices Gulch that can be more efficiently and economically served by OTC as a part of its existing Hereford-Unity exchange, in return for then-unserved OTC territory adjacent to the northern portion of Stices Gulch that can be more efficiently and economically served by PTS as part of its existing Granite exchange, will promote and advance universal service without conflicting with the Commission's rationale for freezing study area boundaries.

In reviewing study area waiver petitions, the Commission employs the following three-prong standard: (1) the change in study area boundaries must not adversely affect the universal service fund; (2) no state commission having regulatory authority over the transferred exchanges may oppose the transfer; and (3) the transfer must be in the public interest. See, e.g., US West Communications, Inc. and South Central Utah Telephone Association, Inc., 9 FCC Rcd 198 (1993); US West Communications, Inc. and Triangle

Telephone Cooperative Association, Inc. et al., 9 FCC Rcd 202 (1993); US West Communications, Inc. and Nemont Telephone Cooperative, Inc., 9 FCC Rcd 721 (1994); GTE Southwest Incorporated and Pioneer Telephone Cooperative, Inc., 9 FCC Rcd 7785 (1994); US West Communications, Inc. and Eagle Telecommunications, Inc., *supra*; CenturyTel of Northwest Arkansas, LLC et al. and GTE Arkansas Incorporated et. al., 15 FCC Rcd 25437 (2000); Citizens Telecommunications Company of North Dakota and US West Communications, Inc., 15 FCC Rcd 12916 (2000); Rye Telephone Company, Inc. and US West Communications, Inc., 15 FCC Rcd 18738 (2000); Spectra Communications Group, LLC and GTE Midwest Incorporated, 15 FCC Rcd 13214 (2000); CenturyTel of Central Wisconsin, LLC and GTE North Incorporated, 15 FCC Rcd 15043 (2000); Telephone USA of Wisconsin, LLC and GTE North Incorporated, 15 FCC Rcd 15032 (2000); Sully Buttes Telephone Cooperative, Inc. and Qwest Corporation, 15 FCC Rcd 18810 (2000); and Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, 15 FCC Rcd 15816 (2000).

Universal Service Fund. The *Skyline Order* found that rural carriers that acquire “unserved” areas having no facilities or customers can receive high-cost universal service support based upon their own embedded costs. *Skyline Order*, at par. 16. It held that the Section 54.305(a) limitations upon support applied only where there was a transfer of facilities or customers. *Id.*

Exhibit H indicates the impact upon the USF received by PTS of the 1999 reallocation of the Granite area, the 2000 reallocation of the Stices Gulch area, and the 2004 trade with OTC. If none of the three “transactions” had taken place, PTS would serve an

estimated 1,039 loops (Category 1.1, 1.2 and 1.3), and receive an estimated \$1,030,556 in USF based upon its 2005-1 data. The addition of the Granite area to PTS's service area has resulted in an increase of 75 loops (from 1,039 to 1,114) and an increase of \$29,706 in its USF support (from \$1,030,556 to \$1,060,262) based upon 2005-1 data. The addition of the Stices Gulch area to PTS's service area has resulted in a further increase of 32 loops (from 1,114 to 1,146) and a further increase of \$33,186 in its USF support (from \$1,060,262 to \$1,093,448) based upon 2005-1 data. Finally, the OTC trade has resulted in a yet further increase of 5 loops (from 1,146 to 1,151) for PTS, and a yet further increase of \$29,185 in its USF support (from \$1,093,448 to \$1,122,632) based upon 2005-1 data. In the aggregate, the three "transactions" resulted in an increase of 112 loops (from 1,039 to 1,151) for PTS, and an increase of \$92,076 in its USF support (from \$1,030,556 to \$1,122,632).

Exhibit I estimates the impact upon the USF received by OTC of the 2004 transfer of the southern portion of the Stices Gulch area from PTS to OTC. It assumes that OTC will provide service to five (5) additional loops (from 1,855 to 1,860), and that it will receive an additional \$31,822 in USF support (from \$331,806 to \$363,622) based upon 2005-1 data.

In the aggregate, the incremental annual USF received by PTS and OTC as a result of all three "transactions" is \$123,898. This is a small fraction of the \$41,957,250 that constitutes one percent of the projected High Cost Support for 2006.

State Commission Approval. The OPUC has previously issued orders approving: (a) the reallocation of the then-unserved Granite area from QC to PTS (Exhibits A and B); (b) the reallocation of the then-unserved Stices Gulch area from QC

to PTS (Exhibits C and D); and (c) the transfer of then-unserved areas in and adjacent to Stices Gulch between PTS and OTC (Exhibit E).

By letter dated April 3, 2006 (attached as Exhibit J), the OPUC declares that it supports grant of federal study area waivers to QC, PTS and OTC to reflect the foregoing service area reallocations and transfers that it has previously approved.

Public Interest Benefits. The essential core of the federal Universal Service policy is to “make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.” 47 U.S.C. §151. Whereas most areas and people of this Nation have access to telecommunications facilities and services, there are still some unserved areas. Bringing service to these areas remains one of the primary public interest goals of U.S. telecommunications policy.

The reallocations of the Granite and Stices Gulch areas from QC to PTS have enabled telecommunications facilities to be constructed, and telecommunications services to be offered, for the first time in these mountainous and forested areas of northeastern Oregon that had not previously had telephone service. Local rural telephone companies like PTS generally have the interest and flexibility to invest in the expansion of their networks to serve neighboring areas that lack quality telecommunications facilities and service, or (as in the Granite and Stices Gulch areas) that had no telecommunications facilities and services at all. PTS has already brought service to unserved portions of the Granite and Stices Gulch areas, and will expand and upgrade its facilities and services in the future.

The 2004 transfers of unserved areas between PTS and OTC were intended to make

it more efficient and less expensive for the parties to serve the affected areas. The former OTC area adjacent to the northern portion of Stices Gulch is not contiguous with the rest of OTC's Oregon study area, and can be more efficiently and economically served as part of PTS's contiguous Granite exchange. Likewise, the southern portion of Stices Gulch is contiguous with OTC's Oregon study area, and can be more efficiently and economically served as part of OTC's existing Hereford-Unity exchange. Both areas have only a small number (5-to-15) of potential customers, and are not likely to be served initially or later upgraded unless they are extensions of larger, contiguous exchanges.

CONCLUSION

Petitioners have met their burden of proving that the proposed study area boundary waiver: (a) will not adversely affect the Universal Service Fund; (b) is not opposed by the state commission that has regulatory authority over the subject Oregon study areas; and (c) will be in the public interest. Therefore, the Bureau is respectfully requested to waive its frozen study area boundaries to allow: (a) the Granite and Stices Gulch areas to be deleted

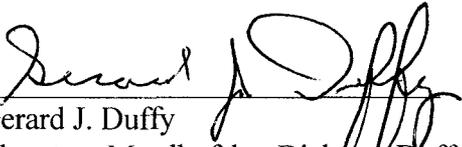
from QC's existing Oregon study area (Study Area Number 535163); (b) the Granite area, the northern portion of Stices Gulch and the adjacent area obtained from OTC to be added to PTS's Oregon study area (Study Area Number 532392); and (c) the southern portion of Stices Gulch to be added to OTC's Oregon study area (Study Area Number 532389).

Respectfully submitted,

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**PINE TELEPHONE SYSTEMS, INC.
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Dated: May 4, 2006

EXHIBIT A

ORDER NO. **99 - 463**
ENTERED **AUG 02 1999**

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 72

In the Matter of the Application of U S WEST)
Communications, Inc., for an Order) ORDER
Unallocating Rights to Exclusively Served)
Territory and to Abandon Territory.)

DISPOSITION: APPLICATION GRANTED

On June 10, 1999, U S WEST Communications, Inc., (USWC) filed an application with the Oregon Public Utility Commission (Commission) requesting an order pursuant to ORS 759.560 and OAR 860-025-0027 authorizing USWC to abandon and unallocate rights to exclusively served territory. The area USWC seeks to abandon and have unallocated may generally be described as the west half of USWC's Sumpter exchange, including the town of Granite and surrounding areas. Appendix A of this order is a legal description of the boundaries of the territory sought to be unallocated and abandoned (hereafter referred to as the "Granite area.>"). Appendix B is a revised legal description for USWC's remaining allocated territory.¹

USWC does not currently provide telecommunications services to the town of Granite or other locations in the Granite area. USWC's existing facilities are not situated close enough to Granite area to permit the company to serve that area economically. The purpose of USWC's application is to permit Pine Telephone Company (Pine) to acquire the territory so that it may provide such services. As a small telephone company, Pine is eligible for low cost loans and subsidies that are unavailable to USWC. Pine has represented that it is willing to provide telephone service to the citizens of Granite without charging them for the construction of facilities.

PUC Staff reviewed USWC's application and agrees that it is in the best interest of residents in the Granite area to allow the company to unallocate and abandon the territory. Staff confirms that it would be prohibitively expensive for USWC to install telecommunications facilities in that area. Staff also notes that low cost funds would not be available to Pine if the Granite area were simply transferred to Pine from USWC.

¹The Sumpter and Baker exchanges described in Appendix B were originally part of a larger territory—labelled Area R—consisting of several exchanges. Because the Granite area is located within the Sumpter exchange, the Baker exchange is unchanged by the current application. Appendix B includes a description of both exchanges for identification purposes.

Public Notice of USWC's application was published in the Baker City Herald and the LaGrande Observer, two newspapers of general circulation, for two consecutive weeks during June 1999. No objections to the application have been registered with the Commission.

Based on the foregoing, the Commission concludes that the application should be granted.

ORDER

IT IS THEREFORE ORDERED that:

1. The application of U S WEST Communications, Inc., to abandon and unallocate the territory specified in Appendix A of this order is granted.
2. Within 30 days of the date of this order, U S WEST Communications, Inc., shall file a revised tariff map of the Sumpter exchange.

Made, entered, and effective **AUG 02 1999** .

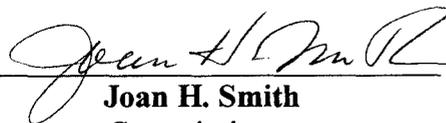


Ron Eachus
Chairman

COMMISSIONER HAMILTON WAS
UNAVAILABLE FOR SIGNATURE

Roger Hamilton
Commissioner





Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. The request must be filed with the Commission within 60 days of the date of service of this order and must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may also appeal this order to a court pursuant to ORS 756.580.

p: admin hrgs/petrillo/ua72/final order

**PROPOSED
GRANITE EXCHANGE**

Beginning in the NE. corner of Sec. 1, T. 8 S., R. 36 E., thence South to the SE. corner of Sec. 13, T. 8 S., R. 36 E., thence West to the SE. corner of Sec. 15, T. 8 S., R. 36 E., thence South to the SE. corner of Sec. 3, T. 10 S., R. 36 E., thence West to the SW. corner of Sec. 4, T. 10 S., R. 36 E., thence North to the NW. corner of Sec. 4, T. 10 S., R. 36 E., thence West to the SW. corner of Sec. 34, T. 9 S., R. 34 E., thence North to the NW. corner of Sec. 3, T. 9 S., R. 34 E., thence East to the NE. corner of Sec. 1, T. 9 S., R. 34 E., thence North to the NW. corner of Sec. 18, T. 8 S., R. 35 E., thence East to the NE. corner of Sec. 13, T. 8 S., R. 35 E. thence North to the NW. corner of Sec. 4, T. 8 S., R. 35 ½ E., thence East to the point of beginning.

Baker Exchange
in Baker County
(Part of Area R in Order #42994)

Beginning at N.W. corner of Section 19, R38E, T8S;
Thence east to the N.W. corner of Section 24, R38E, T8S;
Thence north to the N.W. corner of the S.W. ¼ of Section 13;
Thence east to the N.E. corner of the S.E. ¼ of said Section 13;
Thence south to the N.W. corner of Section 19, R39E, T8S;
Thence east to the N.E. corner of said Section 19;
Thence south to the N.W. corner of the S.W. ¼ of Section 20;
Thence east to the N.E. corner of the S.E. ¼ of said Section 20;
Thence north to the N.W. corner of Section 21;
Thence east to the N.E. corner of Section 23;
Thence north to the N.W. corner of the S.W. ¼ of Section 13;
Thence east to the N.E. corner of the S.E. ¼ of Said Section 13;
Thence north to the N.W. corner of Section 7, R40E, T8S;
Thence west to the S.W. corner of the S.E. ¼ of Section 1, R39E, T8S;
Thence north to the N.W. corner of the N.E. ¼ of said Section 1;
Thence east to the N.W. corner of Section 6, R40E, T8S;
Thence north to the N.W. corner of Section 31, R40E, T7S;
Thence east to the N.E. corner of Section 36, R42E, T7S;
Thence south to the N.E. corner of Section 12, R42E, T8S;
Thence east to the N.E. corner of Section 7, R43E, T8S;
Thence south to the N.E. corner of Section 19;
Thence east to the N.E. corner of Section 20;
Thence south to the N.E. corner of Section 29;
Thence east to the N.E. corner of Section 25, R43E, T8S;
Thence south to the S.E. corner of said Section 25;
Thence west to the N.E. corner of Section 33, R43E, T8S;
Thence south to the S.E. corner of Section 4, R43E, T9S;
Thence west to the S.E. corner of Section 1, R41E, T9S;
Thence south to the N.E. corner of Section 1, R41E, T10S;
Thence east to the N.E. corner of Section 4, R42E, T10S;

Thence south to the S.E. corner of Section 33, R42E, T11S;
Thence west to the N.E. corner of Section 4, R42E, T12S;
Thence south to the S.E. corner of Section 16, R42E, T12S;
Thence west to the S.W. corner of Section 18, R40E, T12S;
Thence south to the S.E. corner of Section 13, R39E, T12S;
Thence west to the S.W. corner of Section 15;
Thence north to the S.W. corner of Section 34, R39E, T10S;
Thence west to the S.W. corner of Section 31, R39E, T10S;
Thence north to the N.E. corner of Section 25, R38E, T9S;
Thence west to the S.W. corner of Section 22, R38E, T9S;
Thence north to the N.E. corner of Section 16, R38E, T9S;
Thence west to the S.W. corner of Section 7, R38E, T9S;
Thence north to the N.W. corner of Section 19, R38E, T8S;
The point of Beginning.

Sumpter Exchange
Baker County
(Part of Area R in Org. Ord # 42994)

Beginning at the N.W. corner of Section 19, R37E, T8S;
Thence east to the N.W. corner of Section 19, R38E, T8S;
Thence south to the S.W. corner of Section 7, R38E, T9S;
Thence east to the N.E. corner of Section 16, R38E, T9S;
Thence south to the S.W. corner of Section 22, R38E, T9S;
Thence east to the N.E. corner of Section 25, R38E, T9S;
Thence south to the S.W. corner of Section 31, R39E, T10S;
Thence west to the S.W. corner of Section 33, R37E, T10S;
Thence north to the S.W. corner of Section 16;
Thence west to the S.W. corner of Section 18;
Thence north to the S.W. corner of Section 7;
Thence west to the S.W. corner of Section 11, R36E, T10S;
Thence north to the N.W. corner of Section 23, R36E, T8S;
Thence east to the N.E. corner of Section 24, R36E, T8S;
Thence north to the N.W. corner of Section 19, R37E, T8S;
The Point of Beginning.

EXHIBIT B

ORDER NO. 99 - 464

ENTERED AUG 02 1999

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 73

In the Matter of the Application of Pine)
Telephone System, Inc., for Allocation of) ORDER
Exclusively Served Territory.)

DISPOSITION: APPLICATION GRANTED

On June 11, 1999, the Pine Telephone System, Inc., (Pine) filed an application with the Public Utility Commission (Commission) requesting an order pursuant to ORS 759.535 and OAR 860-034-0470, allocating rights to exclusively served territory. The area Pine Telephone seeks to have allocated to it includes the town of Granite and adjoining rural areas (hereafter referred to as the "Granite area"). Appendices A and B of this order illustrate the area Pine seeks to serve. Appendix C is a legal description of the proposed territory. The Granite area has never received land-line telecommunications service.

Pine is a small telephone utility headquartered in Halfway, Oregon. It has been owned and operated by the Huff family since 1945 and currently serves approximately 800 customers in Baker and Wallowa Counties.

The town of Granite, Oregon, is located in the Blue Mountains approximately 45 miles west of Baker City. Once a prosperous mining town, the Granite area is today used primarily for recreational activities and second homes. The area supports approximately 85 homes and businesses, including a general store and café, a new lodge and the Tillicum mine. Commercial power is available in town and a new water system is in the planning stages. A paved county road extends to Granite from its primary communities of interest, Sumpter and Baker City. According to Pine, several new homes have been built in the area in recent years and the prospects for growth are good.

Granite residents have expressed interest in obtaining telephone service from Pine on numerous occasions. In response, Pine has conducted studies to determine the feasibility of providing service to the Granite area. An engineering study commissioned by Pine estimates that the cost of constructing facilities to provide one-party service is approximately \$1,058,000. The plan includes a central office building, a digital switch equipped with SS7 and equal access functionality, a fiber optic toll cable between the Granite central office and the U S WEST central office in Sumpter, and loop plant

capable of high speed data services. Financing for this project has been secured through the Rural Utilities Service (RUS). Upon Commission approval of the filing, the initial phase of construction will begin in July 1999 and will focus on building facilities in the town of Granite. Barring any unforeseen circumstances, service should be available to the town by November 1999. The second phase of construction is scheduled for the summer of 2000 and will include the remaining facilities required to serve outlying areas.

Pine has performed a cost recovery analysis which confirms that existing cost recovery mechanisms, including access charges, the Oregon Customer Access Fund, federal universal service support and local rates will be adequate to support the construction of facilities in the Granite area. Appendix D shows Pine's proposed rates for basic single party service. Rates for residential and business service are proposed at \$10.00 and \$15.00, respectively. There will be no charge to customers for construction of facilities. Pine does not intend to offer extended area service at this time to customers in the Granite area.

PUC Staff reviewed Pine's application and agrees that it should be granted. Staff concurs that the construction project will be economic for Pine because of the availability of RUS loans and other financial support available to small telecommunications utilities. Staff does not object to the proposed rates for Granite, even though they are slightly higher than those paid by Pine customers in the Halfway exchange. Staff points out that Pine's proposed rates are still less than the one-party residential and business rates paid by U S WEST customers.

Staff states that Section 253 of the Telecommunications Act of the 1996 preempts state commissions from granting exclusive franchises to provide telecommunications services. Although Staff recommends that the Commission allocate the Granite area to Pine, it observes that the Commission could authorize another carrier to provide service in the area pursuant to ORS 759.020 and 759.050.

Public Notice of Pine's application was published in the Baker City Herald and the LaGrande Observer, two newspapers of general circulation, for two consecutive weeks during June 1999. No objections to the application have been registered with the Commission.

Based on the foregoing, the Commission concludes that Pine's application to serve the Granite area should be granted subject to the limitations on Commission authority to grant exclusive franchises noted above.

ORDER

IT IS THEREFORE ORDERED that:

1. The application of Pine Telephone Company for authority to provide telecommunications services in the unserved territory referred to in this order as the Granite area, is hereby granted.
2. Within 30 days of the date of this order, Pine Telephone Company shall file a tariff map of the Granite exchange including an effective date and title page information.

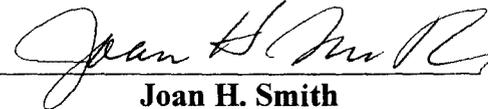
Made, entered, and effective AUG 02 1999



Ron Eachus
Chairman

COMMISSIONER HAMILTON WAS
UNAVAILABLE FOR SIGNATURE

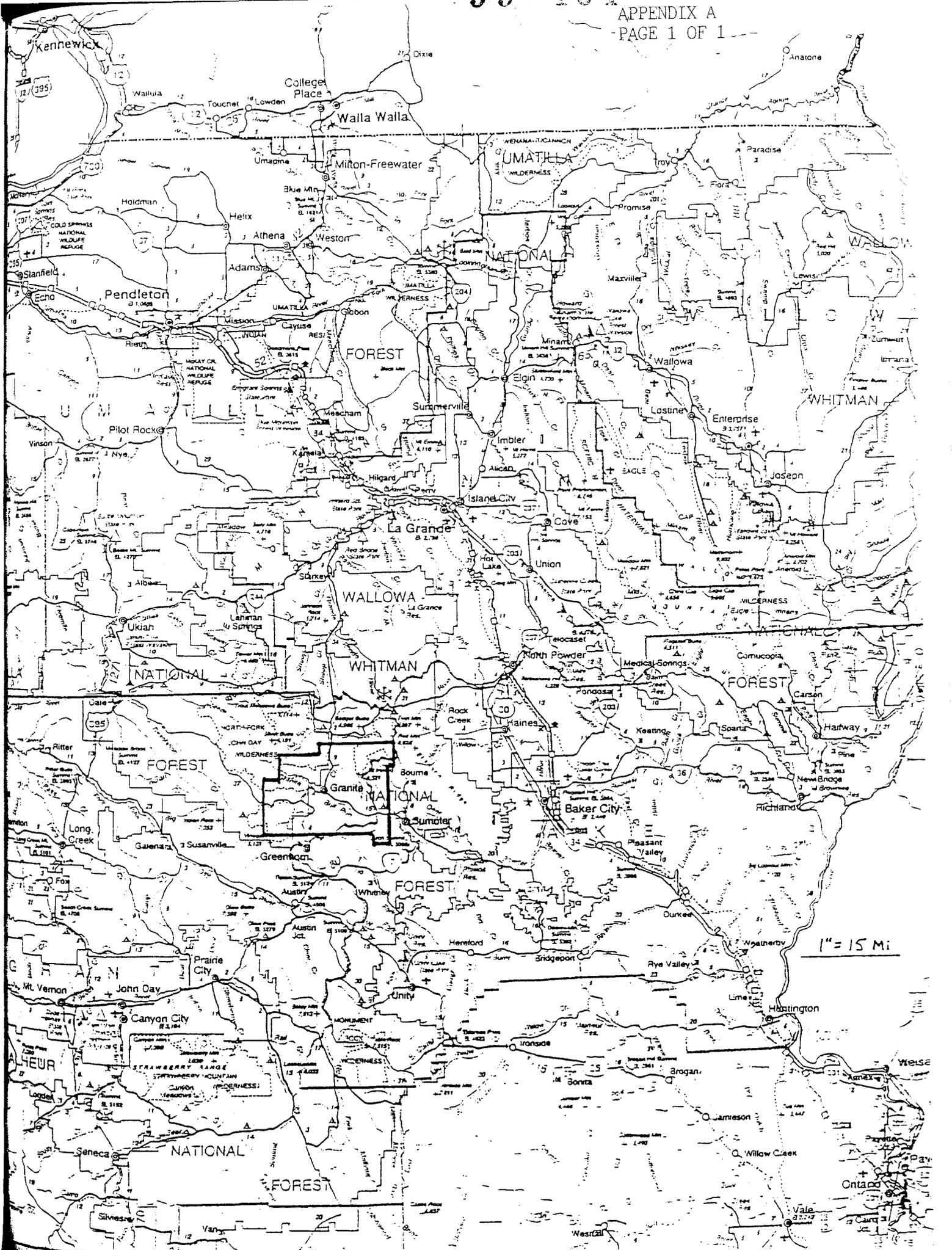
Roger Hamilton
Commissioner



Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. The request must be filed with the Commission within 60 days of the date of service of this order and must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may also appeal this order to a court pursuant to ORS 756.580.

p: admin hrgs/petrillo/ua73/final order



PROPOSEDGRANITE SERVICE BOUNDARY DESCRIPTION

BEGINNING at the southeast corner, Section 3, T-10-S, R-36-E, of the Willamette Meridian, Baker County, Oregon;

THENCE, West to the southwest corner, Section 4, T-10-S, R-36-E, Baker County, Oregon;

THENCE, North to the southwest corner, Section 33, T-9-S, R-36-E, Baker County, Oregon;

THENCE, West to the southwest corner, Section 34, T-9-S, R-34-E, Grant County, Oregon;

THENCE, North to the northwest corner, Section 3, T-9-S, R-34-E, Grant County, Oregon;

THENCE, East to the northwest corner, Section 6, T-9-S, R-35-E, Grant County, Oregon;

THENCE, North to the northwest corner, Section 18, T-8-S, R-35-E, Grant County, Oregon;

THENCE, East to the southwest corner, Section 9, T-8-S, R-35 1/2-E, Grant County, Oregon;

THENCE, North to the northwest corner, Section 4, T-8-S, R-35 1/2-E, Grant County, Oregon;

THENCE, East to the northeast corner, Section 1, T-8-S, R-36-E, Baker County, Oregon;

THENCE, South to the southeast corner, Section 13, T-8-S, R-36-E, Baker County, Oregon;

THENCE, West to the southeast corner, Section 15, T-8-S, R-36-E, Baker County, Oregon;

THENCE, South to the point of beginning being the southeast corner, Section 3, T-10-S, R-36-E, of the Willamette Meridian, Baker County, Oregon.

PUC Or. No.

Revised Sheet No. 301

Pine Telephone System, Inc.

LOCAL SERVICES*

LOCAL ACCESS LINE RATES - Cont'd

RESIDENCE SERVICE



Touchtone

<u>Exchange Names</u>	<u>PBX Trunks</u>	<u>One-Party</u>	<u>Two-Party</u>	<u>Multi-Party</u>
Halfway	N/A	\$7.89	N/A	N/A
Granite	N/A	\$10.00	N/A	N/A

Extended Area Service

N/A

Measured Service

N/A

* Oregon Telephone Assistance Program (OTAP) Credit

The above rates do not include the Oregon Telephone Assistance Program (OTAP) credit. The customer qualifying for the OTAP credit will receive a \$3.50 reduction from the above rates for the single line which serves the customer's principle residence.

* The above rates do not include the Service Assistance Program Surcharge.

Advice No. _____

Issued May 15, 1999

Effective Sept. 1, 1999

Issued By

Title

President

PUC Or. No.

Revised Sheet No. 300

Pine Telephone System, Inc.

LOCAL SERVICES*

LOCAL ACCESS LINE RATES

BUSINESS SERVICE



RATES

Trunks, semi-public, one-party and two-party apply within the base rate area and supplementary base rate areas. Multi-party and service stations apply in suburban areas. Trunks, semi-public, one-party and two-party can be provided in suburban areas for an additional charge (mileage). Following are the monthly rates for local access lines:

Touchtone

<u>Exchange Names</u>	<u>PBX Trunks</u>	<u>Semi-Public</u>	<u>One-Party</u>	<u>Two-Party</u>	<u>Multi-Party</u>
Halfway	N/A	N/A	\$11.50	N/A	N/A
Granite	N/A	N/A	\$15.00	N/A	N/A

Extended Area Service

N/A

Measured Service

N/A

The above rates do not include the Service Assistance Program Surcharge.

Advice No. _____

Issued May 17, 1999

Effective Sept. 1, 1999

Issued By

Randy Hill

Title

President

EXHIBIT C

ORDER NO. 00-416

ENTERED JUL 31 2000

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 86

In the Matter of the Application of U S)
WEST Communications, Inc., for an Order)
Unallocating Rights to Exclusively Served) ORDER
Territory and to Abandon Territory.)

DISPOSITION: APPLICATION TO ABANDON AND
UNALLOCATE TERRITORY GRANTED

On April 27, 2000, U S WEST Communications, Inc. (USWC), filed an application for an order unallocating rights to exclusively served territory and to abandon territory, pursuant to ORS 759.560 and OAR 860-025-0027. The Commission served notice of the application on May 12, 2000. Notice of the application was published in the Baker City Herald on May 19 and 26, 2000. The notices informed the public that any affected party may request a hearing on this matter within 30 days of the notice. No one requested a hearing.

USWC's application deals with an area in USWC's Baker Exchange, about 13 miles south of Baker City. The area is called Stices Gulch and consists of about 25 families living along Stices Gulch and Tamarack Roads. USWC's closest facilities to the Stices Gulch area are at the junction of Highway 7 and Highway 245. Stices Gulch Road is a U.S. Forest Service road that branches off Highway 245 about 3.1 miles south of the junction with Highway 7. It is about 1.8 miles from Highway 245 to Tamarack Road. USWC's facilities at Highway 7 are a little over 3.1 miles from the closest home and approximately 7 miles from the furthest home.

Appendix A to this order is a metes and bounds description of the territory sought to be unallocated and abandoned. Appendix B is a revised metes and bounds description of USWC's remaining allocated territory.

USWC was willing to provide telephone service to the Stices Gulch area, but service would have been contingent on subscribers paying tariffed line extension charges of \$440 per each tenth of a mile, with one tenth of a mile free per applicant. The people of Stices Gulch have been working to obtain telephone service for over two and a half years, but USWC's tariffed line extension charges have made service cost prohibitive to potential customers.

The Stices Gulch residents expressed interest in taking local telephone service from Pine Telephone Systems, Inc. (Pine Telephone). Pine Telephone is a small, investor owned telephone utility located in Halfway, Oregon. Pine Telephone is willing and able to serve Stices Gulch without line extension charges, because Pine Telephone has access to low cost loans and subsidies that are not available to large utilities such as USWC.

USWC is applying to abandon 41 square miles in the southwest corner of the Baker exchange (the Stices Gulch Area). USWC is also applying to have this territory unallocated. None of the approximately 25 families in the area is a wireline customer of USWC. Pine Telephone has separately applied to the Commission for allocation of and authority to serve the Stices Gulch Area once it is unallocated from USWC (Docket UA 87). Pine Telephone will identify this area as the Stices Gulch Area of the Granite Exchange. The current Granite Exchange encompasses about 182 square miles; with the addition of the noncontiguous Stices Gulch Area, the Granite Exchange would total about 223 square miles.

Commission Staff has reviewed USWC's application and supports the proposal to unallocate and abandon the Stices Gulch Area territory. Staff concludes that approving this application is in the best interest of the residents of the territory. Approval will allow Pine Telephone to serve an unserved area at a cost that will not be prohibitive to customers.

Based on the evidence in the record, we conclude that USWC's application to abandon and unallocate the Stices Gulch Area should be approved. USWC should file a revised tariff map of the Baker Exchange to reflect the removal of the Stices Gulch Area.

ORDER

IT IS ORDERED that:

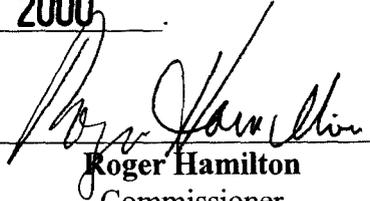
1. USWC's application to abandon and unallocate the territory specified in Appendix A of this order is granted.

2. Within 30 days of the date of this order, USWC shall file a revised tariff map of the Baker Exchange.

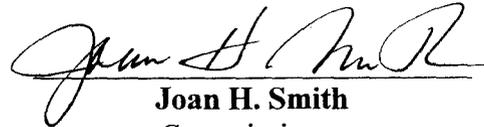
Made, entered, and effective JUL 31 2000



Ron Eachus
Chairman



Roger Hamilton
Commissioner



Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

STICES GULCH

PROPOSED

SERVICE BOUNDARY DESCRIPTION

February 22, 2000

Proposed Non-contiguous Stices Gulch Service Boundaries (Granite, OR) Described as Follows:

BEGINNING at the southeast corner, Section 17, T-12-S, R-40-E, of the Willamette Meridian, Baker County, Oregon;
THENCE, West to the southwest corner, Section 15, T-12-S, R-39-E;
THENCE, North to the northwest corner, Section 15, T-11-S, R-39-E;
THENCE, East to the northwest corner, Section 13, T-11-S, R-39-E;
THENCE, North to the northwest corner, Section 1, T-11-S, R-39-E;
THENCE, East to the northeast corner, Section 5, T-11-S, R-40-E;
THENCE, South to the point of beginning being the southeast corner, Section 17, T-12-S, R-40-E, of the Willamette Meridian, Baker County, Oregon.

**Baker Exchange
in Baker County
(Part of Area R in Order #42994)**

Beginning at N.W. corner of Section 19, R38E, T8S;
Thence east to the N.W. corner of Section 24, R38E, T8S;
Thence north to the N.W. corner of the S.W. $\frac{1}{4}$ of Section 13;
Thence east to the N.E. corner of the S.E. $\frac{1}{4}$ of said Section 13;
Thence south to the N.W. corner of Section 19, R39E, T8S;
Thence east to the N.E. corner of said Section 19;
Thence south to the N.W. corner of the S.W. $\frac{1}{4}$ of Section 20;
Thence east to the N.E. corner of the S.E. $\frac{1}{4}$ of said Section 20;
Thence north to the N.W. corner of Section 21;
Thence east to the N.E. corner of Section 23;
Thence north to the N.W. corner of the S.W. $\frac{1}{4}$ of Section 13;
Thence east to the N.E. corner of the S.E. $\frac{1}{4}$ of said Section 13;
Thence north to the N.W. corner of Section 7, R40E, T8S;
Thence west to the S.W. corner of the S.E. $\frac{1}{4}$ of Section 1, R39E, T8S;
Thence north to the N.W. corner of the N.E. $\frac{1}{4}$ of said Section 1;
Thence east to the N.W. corner of Section 6, R40E, T8S;
Thence north to the N.W. corner of Section 31, R40E, T7S;
Thence east to the N.E. corner of Section 36, R42E, T7S;
Thence south to the N.E. corner of Section 12, R42E, T8S;
Thence east to the N.E. corner of Section 7, R43E, T8S;
Thence south to the N.E. corner of Section 19;
Thence east to the N.E. corner of Section 20;
Thence south to the N.E. corner of Section 29;
Thence east to the N.E. corner of Section 25, R43E, T8S;
Thence south to the S.E. corner of said Section 25;
Thence west to the N.E. corner of Section 33, R43E, T8S;
Thence south to the S.E. corner of Section 4, R43E, T9S;
Thence west to the S.E. corner of Section 1, R41E, T9S;
Thence south to the N.E. corner of Section 1, R41E, T10S;

Thence east to the N.E. corner of Section 4, R42E, T10S;
Thence south to the S.E. corner of Section 33, R42E, T11S;
Thence west to the N.E. corner of Section 4, R42E, T12S;
Thence south to the S.E. corner of Section 16, R42E, T12S;
Thence west to the S.W. corner of Section 16, R40E, T12S;
Thence north to the N.W. corner of Section 4, R40E, T11S;
Thence west to the N.W. corner of Section 1, R39E, T11S;
Thence south to the N.W. corner of Section 13, R39E, T11S;
Thence west to the N.W. corner of Section 15, R39E, T11S;
Thence north to the S.W. corner of Section 34, R39E, T10S;
Thence west to the S.W. corner of Section 31, R39E, T10S;
Thence north to the N.E. corner of Section 25, R38E, T9S;
Thence west to the S.W. corner of Section 22, R38E, T9S;
Thence north to the N.E. corner of Section 16, R38E, T9S;
Thence west to the S.W. corner of Section 7, R38E, T9S;
Thence north to the N.W. corner of Section 19, R38E, T8S;
The point of Beginning.

EXHIBIT D

ORDER NO. 00-420

ENTERED AUG 01 2000

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UA 87

In the Matter of the Application of PINE)
TELEPHONE SYSTEM, INC., for) ORDER
Allocation of Exclusively Served Territory.)

**DISPOSITION: APPLICATION FOR ALLOCATION OF
EXCLUSIVELY SERVED TERRITORY GRANTED**

On April 27, 2000, Pine Telephone Systems, Inc. (Pine Telephone), filed an application with the Commission requesting an order pursuant to ORS 759.535 and OAR 860-034-0470, allocating rights to exclusively served territory. The Commission served notice of the application on May 12, 2000. Notice of the application was published in the Baker City Herald on May 19 and 26, 2000. The notices informed the public that any affected party may request a hearing on this matter within 30 days of the notice. No one requested a hearing.

Pine Telephone is a small telephone utility with headquarters in Halfway, Oregon. Pine Telephone has applied to serve an area called Stices Gulch, about 13 miles south of Baker City (the Stices Gulch Area). The area consists of about 25 families living along Stices Gulch and Tamarack Roads. Appendix A to this order contains a metes and bounds description of the Stices Gulch Area. The Stices Gulch Area will become part of Pine Telephone's Granite Exchange. Appendix A also contains a metes and bounds description of the current Granite Exchange. Staff has verified the accuracy of these descriptions.

There is no wireline telephone service currently in Stices Gulch. The cost to build facilities into and within the area has made service uneconomic for any carrier to provide service without subsidies and low cost loans. Some people in the Stices Gulch Area have cellular service.

Pine Telephone conducted studies to determine the feasibility of providing service to Stices Gulch. Pine Telephone commissioned a detailed engineering study that estimated the cost of constructing facilities to provide all one party service to the Stices

Gulch area at about \$300,000. The plan includes a remote terminal in Stices Gulch and a fiber cable feeder from Pine Telephone's central office in Granite, Oregon, which connects to U S WEST Communications, Inc.'s (USWC) central office in Sumpter.

Pine Telephone has concluded that the existing cost recovery mechanisms, including access charges, OCAF, federal universal service support, and local rates are adequate to support the construction of facilities in Stices Gulch. Rates for residential and business service in the Granite Exchange are \$10 and \$15, respectively. The local calling area for the Granite Exchange will be expanded to include Stices Gulch. There will be no line extension charges to the people of Stices Gulch for construction of the facilities.

Pine Telephone proposes to have toll service rather than Extended Area Service (EAS) between the Granite Exchange and USWC's Sumpter and Baker Exchanges. If USWC were to serve the Stices Gulch Area, customers there would have EAS to the Sumpter Exchange, and calls within the Baker Exchange would be local calls.

ORS 759.235 prohibits mandatory measured local exchange telephone service. ORS 759.235(4) prohibits the Commission from allowing a utility to subdivide an exchange and force customers to pay measured rates for calls that were at one time local calls within an exchange. Commission Staff sought legal advice from the Attorney General's office on whether Pine Telephone would be allowed to impose toll charges on calls from the Granite Exchange to the Sumpter or Baker Exchanges. The Assistant Attorney General advised that because there were no existing customers in the area, Pine Telephone's proposal to impose toll charges did not violate ORS 759.235(4). In two similar cases, Dockets UA 72 and 73, Pine Telephone acquired part of USWC's Sumpter Exchange, created the Granite Exchange, and provided service to Granite. See Orders No. 99-463 and 99-464. In those cases, Pine Telephone also proposed to impose toll charges on calls from the Granite Exchange to the Sumpter and Baker Exchanges.

Staff notes that Pine Telephone's request is for an order granting them the exclusive right to provide service in the Stices Gulch Area. Staff points out that Section 253 of the Telecommunications Act of 1996 preempts state commissions from granting exclusive franchises to provide telecommunications services. Although Staff recommends that the Commission allocate the Stices Gulch Area to Pine Telephone, Staff observes that the Commission could authorize another carrier to provide service in the area pursuant to ORS 759.020 and 759.050.

Based on the evidence in the record, we conclude that Pine Telephone's application to serve the Stices Gulch Area should be approved. We are satisfied that Pine Telephone's proposal to impose toll charges does not violate ORS 759.235(4), because there are no existing customers in the Stices Gulch Area. Pine Telephone may serve the Stices Gulch Area, although as Staff notes, we could authorize another carrier to provide

service in the area. We grant Pine Telephone's application subject to the limitations on Commission authority to grant exclusive franchises imposed by Section 253 of the Telecommunications Act of 1996.

Pine Telephone should file a revised map of its Granite Exchange to reflect the addition of the Stices Gulch Area.

ORDER

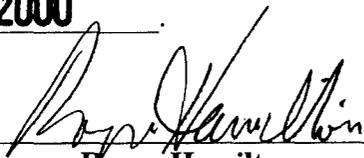
IT IS ORDERED that:

1. Pine Telephone's application for authority to provide telecommunications services in the unserved territory specified in Appendix A of this order is granted.
2. Within 30 days of the date of this order, Pine Telephone shall file a revised tariff map of the Granite Exchange.

Made, entered, and effective AUG 01 2000



Ron Eachus
Chairman



Roger Hamilton
Commissioner





Joan H. Smith
Commissioner

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order to a court pursuant to applicable law.

STICES GULCH

**PROPOSED
SERVICE BOUNDARY DESCRIPTION**

BEGINNING at the southeast corner, Section 17, T-12-S, R-40-E, of the Willamette Meridian, Baker County, Oregon;
THENCE, West to the southwest corner, Section 15, T-12-S, R-39-E;
THENCE, North to the northwest corner, Section 15, T-11-S, R-39-E;
THENCE, East to the northwest corner, Section 13, T-11-S, R-39-E;
THENCE, North to the northwest corner, Section 1, T-11-S, R-39-E;
THENCE, East to the northeast corner, Section 5, T-11-S, R-40-E;
THENCE, South to the point of beginning being the southeast corner, Section 17, T-12-S, R-40-E, of the Willamette Meridian, Baker County, Oregon.